VZCZCXYZ0002
PP RUEHWEB

DE RUEHAR #1449/01 3190942
ZNR UUUUU ZZH
P 140942Z NOV 08
FM AMEMBASSY ACCRA
TO SECSTATE WASHDC PRIORITY 7237

UNCLAS ACCRA 001449

SIPDIS

STATE FOR EB/TPP/BTA; STATE PASS TO USTR-GBLUE

E.O. 12958: N/A
TAGS: ETRD ECON EFIN GH
SUBJECT: GHANAQS 2009 TRADE ESTIMATE REPORT

REF: STATE 88685

¶1. SUMMARY: The U.S. goods trade surplus with Ghana was $217 million in 2007, an increase of $120 million from $97 million in 2006. U.S. goods exports in 2007 were $416 million, up 43.7 percent from the previous year. Corresponding U.S. imports from Ghana were $199 million, up 3.4 percent. Ghana is currently the 95th largest export market for U.S. goods.

¶3. The stock of U.S. foreign direct investment in Ghana was $237 million in 2006 (latest data available), down from $239 million in ¶2005.

IMPORT POLICIES

Tariffs:

¶4. Ghana is a Member of the World Trade Organization (WTO) and the Economic Community of West African States (ECOWAS). Along with other ECOWAS countries, Ghana adopted a common external tariff (CET) in ¶2005. The ECOWAS CET requires that members simplify and harmonize ad valorem tariff rates into four bands: zero duty on social goods (e.g., medicine, publications); 5 percent on imported raw materials; 10 percent on intermediate goods; and 20 percent on finished goods. Currently, Ghana maintains 190 exceptions to the CET. Tariff rates for the items covered under these exceptions are within the 0 percent to 20 percent range, but will require some changes to align with the CET. Ghana is currently in a transition period and is negotiating exceptions with ECOWAS. The deadline for agreement on a comprehensive ECOWAS CET was January 1, 2008, but this deadline was not met.

Nontariff Measures

¶5. Importers are confronted by a variety of fees and charges in addition to tariffs. Ghana levies a 12.5 percent value added tax (VAT) plus a 2.5 percent National Health Insurance Levy on the duty inclusive value of all imports and locally produced goods, with a few selected exemptions. In addition, Ghana imposes a 0.5 percent ECOWAS surcharge on all goods originating from non-ECOWAS countries and charges 0.4 percent on the free on board value of goods (including VAT) for the use of the automated clearing system, the Ghana Community Network. Further, under the Export Development and Investment Fund Act, Ghana imposes a 0.5 percent duty on all nonpetroleum products imported in commercial quantities. Ghana also applies a 1 percent processing fee on all duty free imports.

¶6. All imports are subject to destination inspection and an inspection fee of 1 percent of cost, insurance and freight (CIF). Importers have indicated that they would prefer a flat fee on each transaction. The destination inspection companies (DIC) account for the longest delay in import clearance. A 2008 study on port fees revealed that, out of the total transaction time of 69 hours for import clearance, DIC alone accounts for 45 hours. Contracts of two of the four DICs expire at the end of 2008, but the other two have contracts that run through 2009 and 2010. Due to lobbying from importers, the Ghana Customs has established a Customs Management System to take over the valuation and classification of imported goods from the DICs. The system, which is expected to go live on January 1, 2009, is expected to automate all key steps associated with customs entry processing, payments and clearance. The new system is expected to cut down on transaction time because entry will now be electronic as against the current system where hard copies of documents are physically submitted to the offices of the DICs.

¶7. In July 2007, an ad valorem excise tax on locally produced and imported malt drinks, water, beer, and tobacco products was replaced with specific rates for each product. These changes were based on a study sponsored by Coca-Cola for the Ghanaian government. The previous ad valorem excise tax on these products was between 5 percent and 140 percent. More specific rates are now charged on a liter basis depending on the level of alcohol content. Carbonated soft drinks attract GHC 0.04 (about $0.04) per liter, while malt drinks attract GHC 0.05 per liter excise tax.

¶8. Tobacco products have a range of GHC 0.01 to GHC 0.03 per stick depending on the quality. An examination fee of 1 percent is applied to imported vehicles. Imported used vehicles that are more than 10 years old incur an additional tax ranging from 5 percent to 50 percent of the CIF value. Ghana Customs maintains a price list of vehicles that it uses to determine the value of used vehicles for tax purposes. There are complaints that this system is nontransparent because the price list used for valuation is not publicly available.

¶9. All communications equipment requires a clearance letter from the National Communications Authority.

¶10. Each year, between May and October, there is a temporary ban on the importation of fish, except canned fish, to protect local fishermen during their peak season. Ghana lifted its previous restriction on imports of U.S. boneQin beef (based on concerns regarding Bovine Spongiform Encephalopathy (BSE)).

¶11. Certificates are required for agricultural, food, cosmetics, and pharmaceutical imports. The import procedures for these products are cumbersome. Permits are required for poultry and poultry product imports. The permit process is time consuming, and at the time the permit is issued, a nonstandardized quantity limit is imposed. Ghana prohibits the importation of meat with a fat content by weight greater than 25 percent for beef, 42 percent for pork, 15 percent for poultry, and 35 percent for mutton. Imported turkeys must have their oil glands removed. Ghana restricts the importation of condensed or evaporated milk with less than 8 percent milk fat by weight, and dried milk or milk powder containing less than 26 percent by weight of milk fat, with the exception of imported skim milk in containers. Effective November 1, 2007, the Ghanaian government imposed a temporary ban on the import of tomato paste and concentrates, citing Qunfair trade practices.Q Temporary permits were, however, granted to some importers to import the tomato concentrate for canning.

STANDARDS, TESTING, LABELING, AND CERTIFICATION
--- --

¶12. Ghana has issued its own standards for most products under the auspices of its testing authority, the Ghana Standards Board (GSB). The GSB has promulgated more than 343 Ghanaian standards and adopted more han 1,362 international standards for certification purposes. The Food and Drugs Board is responsible for enforcing standards for

food, drugs, cosmetics, and health items.

¶13. Under GhanaQs QConformity Assessment Program,Q some imports are classified as Qhigh risk goodsQ (HRG) that must be inspected by GSB officials at the port to ensure they meet Ghanaian standards. The GSB has classified the HRG into 20 broad groups, including food products, electrical appliances and used goods. The classification of HRG is vague and arbitrary, and its scope has raised numerous questions. For example, the category of Qalcoholic and nonalcoholic productsQ could presumably include beverages, pharmaceuticals, and industrial products under the same classification. The CAP process requires prior registration with GSB as an importer of HRG and GSB approval to import any listed HRG. The importer must submit to GSB a sample of the HRG, accompanied by a certificate of analysis (COA) or a certificate of conformance (COC) from accredited laboratories in the country of export. Most often, the GSB officials conduct a physical examination and check labeling and marking requirements and ensure that goods are released within 48 hours. Currently, the fee for registering the first three HRG is GHC 50 (about $45) and GHC 20 for each additional product. Any HRG entering Ghana without a COC or COA from an accredited laboratory is detained and subjected to testing by the GSB. The importer is required to pay the testing fee based on the number and kinds of parameters tested. The GSB publishes most of its fees on its website. U.S. companies have expressed concern that the standards that the Ghana CAP utilizes are difficult to determine and that independent third pfood products carry expiration dates or shelf life and requires that the expiry date at the time it reaches Ghana should be at least two-thirds the shelf life. Goods that do not have two-thirds of their shelf life remaining are seized at the port of entry and destroyed. This requirement appears inconsistent with the Codex Alimentarius Commission General Standard for Labeling of Prepackaged Foods.

¶15. Ghana passed provisional Biosafety legislation in March 2008 to specifically govern agricultural biotechnology, while waiting for the passage of a larger Biosafety regime. The regulations provide procedures for contained work and field trials on biotechnology products, release of these products into the environment, and importation, exportation, and transit of agricultural biotechnology products. The law allows the National Biosafety Committee, through consultation with appropriate authorities to issue guidelines on labeling. The PresidentQs Cabinet is currently reviewing a draft Biosafety Bill that establishes the National Biosafety Authority, which will be the administrative body responsible for all issues related to biotechnology in Ghana.

GOVERNMENT PROCUREMENT

¶16. Ghana is not a signatory to the WTO Agreement on Government Procurement. In 2003, Parliament enacted a public procurement law that codified guidelines to enhance transparency and efficiency in the procurement process and assigned responsibility for administration of procurement to a central body. In 2004, the government inaugurated the Public Procurement Board. Individual government entities have formed tender committees and tender review boards to conduct their own procurement. Large public procurements are made by open tender and foreign firms are allowed to participate. A draft guideline being applied to current tenders gives a margin of preference of 7.5 percent to 20 percent to domestic suppliers of goods and services in international competitive bidding. Notwithstanding the procurement law, companies cannot expect complete transparency in locally funded contracts. Allegations of corruption in government procurement are fairly common.

EXPORT SUBSIDIES

¶17. Agricultural export subsidies were eliminated in the mid-1980s. However, the government uses preferential credits and tax incentives to promote exports. The Export Development Investment Fund provides financing on preferential terms: an 18 percent interest rate, which is below market rates. The Export Processing Zone (EPZ) Law leaves corporate profits untaxed for the first 10 years of business operation in an EPZ. After 10 years the tax rate is 8 percent (the same rate for non-EPZ exporting companies). Seventy percent of production in the EPZ zones must be exported. The current corporate tax rate for nonexporting companies is 25 percent.

INTELLECTUAL PROPERTY RIGHTS (IPR) PROTECTION

¶18. Ghana is a party to the Berne Convention for the Protection of Literary and Artistic Works, the Paris Convention for the Protection of Industrial Property, the Patent Cooperation Treaty, the World Intellectual Property Organization (WIPO) Copyright Treaty and the African Regional Industrial Property Organization. Ghana has signed the WIPO Performances and Phonograms Treaty and the Patent Law Treaty. Since December 2003, Parliament has passed six bills designed to bring Ghana into compliance with the WTO TRIPS Agreement. The new laws address copyright, trademarks, patents, layout-designs (topographies) of integrated circuits, geographical indications, and industrial designs. Regulations to define the procedures for comprehensive IPR protection and enforcement have not been promulgated. However, copyright regulations were passed in July 2008, under GhanaQs legislative instrument 1933.

¶19. Piracy of copyrighted works is known to take place, although there is no reliable information on the scale of this activity. Holders of intellectual property rights have access to local courts for redress of grievances, although very few trademark, patent, and copyright infringement cases have been filed in Ghana in recent years. Government initiated enforcement remains relatively rare but the Copyright Office, which is under the Attorney GeneralQs Office, has initiated raids on markets for pirated works. The customs service has collaborated with IPR-concerned companies to check import shipments for specific counterfeit products.

SERVICES BARRIERS

¶20. The investment code excludes foreign investors from participating in four economic sectors: petty trading, the operation of taxi and car rental services with fleets of fewer than ten vehicles, lotteries (excluding soccer pools), and the operation of beauty salons and barber shops.

¶21. Ghana allows foreign telecommunications firms to provide basic services, but requires that these services be provided through joint ventures with Ghanaian nationals. The National Communications Authority (NCA) has yet to become an effective mechanism to resolve complaints alleging that Ghana Telecom, the state owned national telecommunications operator, has engaged in anticompetitive practices.

¶22. Ghana allows up to 60 percent foreign ownership in insurance firms. This cap does not apply to auxiliary insurance services, in which 100 percent foreign ownership is permitted. Ghana allows foreign companies to provide a full range of insurance services, as long as they are registered as companies in Ghana.

¶23. Foreigners may participate in banking and other noninsurance financial services but there are some conditions relating to nonresident foreigners. Under the central bankQs new minimum capital requirement for banks, existing banks with Ghanaian majority share ownership (local banks) have until 2012 to fully increase their capital base to GHC 60 million (about USD 54 million)from GHC 7 million (about USD 6.3 million), while banks with majority foreign ownership need to meet the target by 2009. Shares held by a single nonresident foreigner and the total number of shares held by all nonresident foreigners in any company listed on the Ghana Stock Exchange may not exceed 10 percent and 74 percent, respectively.

INVESTMENT BARRIERS

¶24. Foreign investment projects must be registered with the Ghana Investment Promotion Center (GIPC), a process that is supposed to take no more than five working days but often takes longer. In order to improve its service, the GIPC in 2007, introduced an online registration system http://www.gipc.org.gh/forms_page.aspx.

¶25. The following minimum equity requirements apply, in the form of either cash or its equivalent in capital goods, for non-Ghanaians who want to invest in Ghana: $10,000 for joint ventures with a Ghanaian; $50,000 for enterprises wholly owned by a non-Ghanaian; and $300,000 for trading companies (firms that buy/sell finished goods) either wholly or partly owned by non-Ghanaians. The GIPC has proposed increasing the minimum equity for trading companies to $1 million. Trading companies must also employ at least 10 Ghanaians. Work visa quotas for businesses are in effect.

ELECTRONIC COMMERCE

¶26. Barriers to electronic commerce are mainly related to inadequate telecommunications and financial infrastructure. The legal framework for electronic transactions is before parliament. The payment system in Ghana is largely cash based. The government established in June 2008 a national switch and a smart card payment system that links banks and financial institutions throughout Ghana and allows the use of point of sale and other electronic payments tools, but the enrollment rate has been slow.

OTHER BARRIERS

¶27. There are frequent problems related to GhanaQs complex land tenure system; establishing clear title on real estate can be difficult. Non-Ghanaians can have access to land only on a leasehold basis.

¶28. Frequent backlogs of cargo at the port hurt the business climate. The Customs Service phased in an automated customs declaration system to facilitate customs clearance. Although the new system has cut down the number of days for clearing goods through the ports, the desired impact has yet to be realized because complementary services from government agencies, banks, destination inspection companies, and security services have not been established.

¶29. The residual effects of a highly regulated economy and lack of transparency in certain government operations create an added element of risk for potential investors. Entrenched local interests sometimes have the ability to derail or delay new entrants, and securing government approvals may depend upon an applicantQs local contacts. The political leanings of the Ghanaian partners of foreign investors are often subject to government scrutiny, and ensuring compliance with the U.S. Foreign Corrupt Practices Act (FCPA) is a challenge.

TEITELBAUM